

## REMARKS

The Office Action dated September 25, 2003 has been received and carefully studied.

The Examiner rejects claims 1, 3 and 4 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description. The Examiner's first issue relates to line 2 of claim 1. Line 2 contains a typographical error; it should read ". . . a slurry containing the chromatography media to pack the column. . . ." By the accompanying amendment, the correction has been made.

The Examiner's second issue is that no support exists in the specification as filed for circulating the slurry directly back to the slurry vessel.

Applicants respectfully disagree. Figure 5 shows a path from the slurry vessel 104 through pipes 106, 113, 122, 126 and 128 that circulates slurry from the slurry vessel directly back to the slurry vessel. This is described in the paragraph bridging pages 21-22 of the specification. The Examiner's interpretation that page 21 indicates that the slurry is transported to the bottom of the chromatography column seems to be referring to a different mode of operation. Accordingly, reconsideration of this rejection is respectfully requested.

The Examiner continues to object to the amendment under 35 U.S.C. §132 filed August 27, 2001 because it introduces new matter. The Examiner states that the amendments to Figure 5 and pages 21 and 23 of the specification add new matter.

The Examiner is respectfully requested to reconsider his position.

The addition of new language does not necessarily equate to the addition of new matter. Indeed, it is well settled that amendments may be made to cure obvious defects, to clarify, or to render explicit what is implicitly described. See, for example, *Quigley v. Zimmerman*, 23 U.S.P.Q. 310 (CCPA 1934); *Triax Co. v. Hartman Metal Fabricators, Inc.*, 178 U.S.P.Q. 12, 146 (2d Cir. 1973), *cert. denied*, 414 U.S. 1113 (1973); *In re Wright*, 145 U.S.P.Q. 182, 188 (CCPA 1965).

The matter added to pages 21 and 23 and to Figure 5 is fully supported by the original disclosure. The two valves at the top and bottom of the column of Figure 5 are identical to those of Figures 3 and 4. This is expressly made clear in the paragraph bridging pages 20 and 21 of the original disclosure, where it is stated that Figure 5 shows a chromatography column system that includes a chromatography column 101 as previously described with reference to Figures 1, 3 and 4 and including top and bottom valves as shown in Figures 3 and 4. Thus, the original disclosure expressly states that the column 101 of Figure 5 is that of Figures 3 and 4. The amendments previously presented simply correct Figure 5 and the corresponding text to be consistent with Figures 3 and 4. This was an obvious error correctable by amendment. That amendment did not add new matter.

In the event the Examiner maintains this objection, it is respectfully requested that the Examiner specifically point out why the Examiner does not consider the above-referenced Figures and disclosure to support the amendment.

The Examiner continues to reject claims 1, 3 and 4 under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over each of Unger and Munch.

With respect to Unger, the Examiner states that the only purpose of the pipe extending from the valve at the top of column 1 to packing receiver 8 is to recirculate packing material. Applicants respectfully disagree. As shown in Figure 2 of Unger, when the pipe extending from the valve at the top of the column is used, it does not communicate with pipe "b" from the slurry vessel, but rather with the column itself. Thus, the slurry is not circulated from the slurry vessel and directly back to the slurry vessel as required by the instant claims.

The Examiner states that Munch recirculates material through valves 9 and 11 back to slurry vessel 11 (sic, 1). Applicants again respectfully disagree. Munch circulates from slurry vessel 1

through valve 9 to vessel 3, not directly back to vessel 1.

Reconsideration and allowance are respectfully requested in view of the foregoing.

Respectfully submitted,



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